

CIVIL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NO. C582129

DIVISION "D"

MARIA CRUZ MALDONADO

Individually and as representative of the ESTATE OF ULVALDO SOTO MARTINEZ,  
DECEASED, and as Next Friend and Natural Guardian of JUSTIN SOTO-MALDONADO  
AND USVALDO JESUS SOTO-MALDONADO,  
MINORS, AND GILBERTO SOTO MARTINEZ

VERSUS

KIEWIT LOUISIANA CO., MASSMAN CONSTRUCTION CO., TRAYLOR BROS.,  
INC., A JOINT VENTURE D/B/A KIEWIT MASSMAN TRAYLOR CONSTRUCTORS  
A/K/A KMTC JV, GEC LOUISIANA TIMED MANAGERS, A JOINT VENTURE  
PARTNERSHIP, PB AMERICAS, INC. F/K/A/ PARSONS, BRINCKERHOFF, QUADE  
& DOUGLAS, INC. AS PARTNER OF GEC LOUISIANA TIMED MANAGERS, A  
JOINT VENTURE PARTNERSHIP, LPA GROUP INCORPORATED AS PARTNER OF  
GEC LOUISIANA TIMED MANAGERS, A JOINT VENTURE PARTNERSHIP, G.E.C.  
INC. AS PARTNER OF GEC LOUISIANA TIMED MANAGERS, A JOINT VENTURE  
PARTNERSHIP, ZURICH AMERICAN INSURANCE COMPANY, THE STATE OF  
LOUISIANA THROUGH THE DEPARTMENT OF TRANSPORTATION AND  
DEVELOPMENT AND JL STEEL REINFORCING, LLC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

GUADALUPE ARENAS VARGAS, )

Individually and As Representative of the )

Estate of MARTIN ANASTACIO REYES )

OSUNA, Deceased, and As Next Friend of )

ZAID MARTIN REYES ARENAS; JUANA )

SYLVIA OZUNA GARCIA; and MARTIN )

REYES ADAME )

C.A. NO. 4:09-CV-02521

V. )

KIEWIT LOUISIANA CO., MASSMAN )

CONSTRUCTION CO., and TRAYLOR )

BROS., INC., a Joint Venture d/b/a KIEWIT )

JURY TRIAL DEMANDED

MASSMAN TRAYLOR CONSTRUCTORS; )

KIEWIT LOUISIANA CO.; MASSMAN )

CONSTRUCTION CO.; and TRAYLOR )

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ORAL AND VIDEOTAPED DEPOSITION OF

MICHAEL CHARLES LAPOINTE

FEBRUARY 14, 2011

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF MICHAEL CHARLES  
LAPOINTE, produced as a witness at the instance of the  
Plaintiffs, and duly sworn, was taken in the  
above-styled and numbered cause on the 14th day of  
February, 2011, from 9:22 a.m. to 6:59 p.m., before  
Mary Burkes, CSR in and for the State of Texas,  
reported by machine shorthand, at the law firm of  
Deutsch, Kerrigan & Stiles, 755 Magazine Street, Fifth  
Floor Conference Room, pursuant to Notice, and the  
Louisiana Rules of Civil Procedure and the provisions  
stated on the record or attached hereto.

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## A P P E A R A N C E S

(Continued)

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ALSO PRESENT:

Mr. Jeff Myers, JL Steel Reinforcing

VIDEOGRAPHER:

Mr. Mark Hendrix

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## MICHAEL CHARLES LAPOINTE

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7	JV-02741; "Unsafe Acts," KMTC JV-02744 to 02745;	
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19	Forman Training Safety Meeting; Condensed Training	
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1 THE VIDEOGRAPHER: Today's date is  
2 February 14th, 2011. We are on the record at 9:22.  
3 Start Tape 1.

4 MICHAEL CHARLES LAPOINTE,  
5 having been first duly sworn, was examined and  
6 testified as follows:

7 EXAMINATION

8 QUESTIONS BY MR. LYON:

9 Q. If you would please state your full name for  
10 us on the record.

11 A. Michael Charles LaPointe.

12 Q. And, Mr. LaPointe, where do you live?

13 A. I live in North Richland Hills, Texas.

14 Q. And do you live there with your family?

15 A. I -- with my wife, yes.

16 Q. Do you have a business there?

17 A. I do.

18 Q. And what's the name of the business?

19 A. JL Steel Reinforcing, LLC.

20 Q. And how long has JL Steel been in business?

21 A. Approximately 25 years.

22 Q. And who are the owners of JL Steel?

23 A. Right now, myself and my son.

24 Q. And your son's name?

25 A. Kyle LaPointe.

1 a question. We'll be happy to take the time to search  
2 for it. All right?

3 A. Okay.

4 Q. What did you do in preparation for this  
5 deposition, other than meet with your own lawyer?

6 A. Met with Chuck Clayton briefly.

7 Q. And when was that?

8 A. Yesterday afternoon.

9 Q. And how long did you meet with Mr. Clayton?

10 A. Approximately one hour.

11 Q. And where were you -- where did you meet with  
12 him?

13 A. At our Louisiana office.

14 Q. And when you say "our," you mean JL Steel's?

15 A. Correct.

16 Q. What is JL Steel's local office? Is it a  
17 construction trailer, an office building? What is it?

18 A. In Fort Worth we have a warehouse/office  
19 facility that we lease, about 2500 square feet of  
20 office space and the same amount of warehouse space and  
21 some outside storage. Here in Louisiana we have only  
22 about 2,000 feet of office space, also leased.

23 Q. And so you met with Mr. Clayton and Mr. Quinn.  
24 Anybody else participate in that meeting?

25 A. Jeff Myers.

1           Q.    So Mr. Myers is the only vice president in the  
2 organization?

3           A.    Kyle is actually listed as a vice president as  
4 well.

5           Q.    And how old is Kyle?

6           A.    29.

7           Q.    Was that the same management structure that  
8 was in place back in 2009?

9           A.    Yes.

10          Q.    How did it come to pass that you became  
11 involved in the Huey P. Long bridge project which is  
12 the subject of this lawsuit?

13          A.    We were invited to bid as a subcontractor with  
14 Kiewit Group in Texas. We had a relationship with  
15 Kiewit on several other projects over the past 15 years  
16 or so.

17          Q.    And I believe Kiewit has a facility in Fort  
18 Worth; is that correct?

19          A.    Correct.

20          Q.    There was a contract that was signed on or  
21 about June of 2008 concerning this project, and  
22 that's -- that is how this culminated, from the  
23 invitation to bid from Kiewit Texas, and then you  
24 submitted a bid, and ultimately you were advised that  
25 you were awarded the bid, correct?

1 A. That is correct.

2 (Plaintiffs' Exhibit No. 31 was marked.)

3 Q. (BY MR. LYON) Let me hand you what I've  
4 marked as Plaintiffs' Exhibit No. 31. I'll just put  
5 that up here on the screen briefly, if we can -- let me  
6 see if I can -- here we go.

7 Plaintiff's Exhibit No. 31 is also Bates  
8 marked as JL Steel 001238 -- I'm sorry -- to 41. Is  
9 that what you have there?

10 A. It says 31, Plaintiffs' Exhibit 31.

11 Q. And the bottom right-hand corner of the page  
12 says --

13 MR. QUINN: See that bottom right-hand  
14 right there, Mike?

15 THE WITNESS: Oh.

16 A. It says "JL Steel 00001."

17 Q. (BY MR. LYON) Okay. And then if you would,  
18 kind of go through to the last page there.

19 A. Okay.

20 Q. And the last page has a marking on it of  
21 JL Steel 00041, correct?

22 A. Correct.

23 Q. Would you just take a look at that and verify  
24 for me that that is the subcontract that you executed  
25 on behalf of JL Steel Reinforcing, LLC for the Huey P.

1 Long bridge project.

2 A. It appears to be that contract. It does.

3 Q. Okay. If you would, turn to me to Page 4, and  
4 I'm just going to skip all the zeroes.

5 A. Okay.

6 Q. If you don't mind.

7 A. Not at all.

8 Q. And I'll put up here on the screen for you --  
9 I've kind of highlighted an area. If you would, look  
10 at Article 1.

11 A. Okay.

12 Q. And if you would, would you read into the  
13 record for us Article 1, please.

14 A. "Subcontractor agrees to furnish all  
15 supervision, labor, tools, equipment, materials, and  
16 supplies necessary to perform and to perform the  
17 following described work in accordance with the terms  
18 and conditions of the prime contract of this  
19 subcontract."

20 Q. And then it says below that?

21 A. "See attached Article 1 Schedule of Values."

22 Q. Okay. And if you would turn the page to page  
23 5, does Page 5 -- and I've highlighted it for purposes  
24 of our screen projection. Does Article 1, Schedule of  
25 Values, show the Schedule of Values that we just talked

1 about?

2 A. Yes.

3 Q. All right. Let's go next, if you will, to the  
4 next page, to Section 3, which discusses payment.

5 A. Okay.

6 Q. Now, in this contract, you were the  
7 subcontractor, correct?

8 A. That is correct.

9 Q. And it was -- there we go. And the contract  
10 was between you -- and if we go back to Page 4  
11 there -- the print is rather small. But the contractor  
12 was Kiewit Louisiana Company, Massman Construction  
13 Company, and Traylor Brothers, Inc., a Joint Venture  
14 d/b/a Kiewit Massman Traylor Constructors, correct?

15 A. Correct.

16 Q. For today's purposes, if we say "KMTC," will  
17 that adequately identify who you had your contract  
18 with?

19 A. Yes.

20 Q. All right. Now, if we go back again to the  
21 payment part on Page 6 --

22 MR. BRENNAN: When you refer to "Page 6,"  
23 just to make the record clear, you're talking about the  
24 Bates number --

25 MR. LYON: The Bates --

1 any of your employees express any concerns or  
2 reservations relative to the means by -- and procedures  
3 associated with the fabrication and installation and  
4 lifting of rebar cages?

5 A. No.

6 Q. Okay. Now, as part of the obligations of  
7 JL Steel pursuant to the subcontract and primary  
8 contract, were you required to maintain all of your  
9 work areas and jobsites clean and tidy and things of  
10 that nature?

11 A. Yes.

12 Q. Okay. And that included all the extra ties  
13 and tie wires and things like that?

14 A. Yes.

15 Q. Have you ever been formally reprimanded by  
16 KMTC for failure to maintain a clean jobsite or  
17 fabrication site?

18 A. I believe there was a letter early on which  
19 constituted a formal reprimand, for one area.

20 Q. Now, when you were originally awarded the  
21 subcontract, how long were you -- did you expect  
22 JL Steel to be able to perform work on this project?

23 A. Five years.

24 Q. And how long have you been working on the  
25 project so far?

1           A.    Two and a half years, almost -- it will be  
2 three years June. July.

3           Q.    And so you've got another two years on the  
4 project, at least?

5           A.    Yes.

6           Q.    Okay. Were the -- were your guys who you  
7 brought onto this project aware of the fact that when  
8 they started, that they could be here in Louisiana for  
9 up to five years?

10          A.    Yes.

11          Q.    Okay. Now, since JL Steel has been working on  
12 this project, has Kiewit executed any subcontract  
13 agreements with JL Steel for rebar construction  
14 services on other projects here in Louisiana?

15          A.    Yes.

16          Q.    And what is that?

17          A.    The west closure project. That's actually a  
18 joint -- a different joint venture partner of Kiewit  
19 and Traylor, Gulf Intercoastal, GIC Constructors.

20          Q.    And what type of work does JL Steel perform on  
21 that project?

22          A.    Rebar placement. The actual project is a pump  
23 station in a sector gate.

24          Q.    And so is it fair to say that this -- the work  
25 that is being performed on that project is nearly



1                   IN WITNESS WHEREOF, I have hereunto affixed my  
2 hand and seal of office on this, the \_\_\_\_\_ day  
3 of \_\_\_\_\_ 2011.



4  
5 Mary Abbott Burkes

Mary Abbott Burkes,  
6 Certified Shorthand Reporter  
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